

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-600-412-160
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On May 6, 2015, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing additional individual income tax, penalty, and interest in the total amount of \$370 for taxable year 2010.

The petitioner filed a timely appeal and petition for redetermination. He requested a telephone conference which was held on October 20, 2015. The Tax Commission has reviewed the file, is advised of its contents, and hereby issues its decision based thereon.

Idaho Code § 63-3002 provides:

Declaration of intent. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code relating to the measurement of taxable income, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; . . .

The intent of the Idaho Legislature is to follow the federal determination of income subject only to modifications contained in Idaho law. Pursuant to the authority of Internal Revenue Code § 6103(d), the Tax Commission obtained the results of an [Redacted] redetermination of the petitioner's 2010 [Redacted] income tax return.

The petitioner failed to notify the Idaho State Tax Commission of the [Redacted] determination within the 60-day period required by Idaho Code § 63-3069. The Bureau issued

an NODD to the petitioner advising him of additional Idaho income tax, penalty, and interest due as a result of the increase to his taxable income.

In response to the NODD, the petitioner sent payment in the amount of \$307, the amount of the tax due shown on the NODD and wrote on the payment voucher, "I am not willing to pay penalty (\$15.35) and interest (46.13)".

The Bureau sent the petitioner a letter acknowledging his protest. His file was transferred to the Legal/Tax Policy Division for administrative review. The petitioner responded to the letter from the Legal/Tax Policy Division wherein he was of his right to schedule a conference or submit additional information for consideration. The petitioner availed himself of the opportunity to appear for a conference but did not submit any additional information.

The petitioner has not said he disagrees with the audit results, but has stated several times that the interest and penalty are unfair and he refuses to pay them.

Idaho Tax Commission Administration and Enforcement Rule 410(i) provides for a five percent penalty for failure to provide the Tax Commission with a copy of a final federal determination within 60 days of the date of the determination.

The Idaho Supreme Court heard Union Pacific Railroad Company v. State Tax Commission, 105 Idaho 471, 670 p.2d 878 (1983). In this case, there was a substantial delay in resolving the taxpayer's liability. In addressing whether the taxpayer was required to pay interest, the Court stated:

The general rule is that absent statutory authorization, courts have no power to remit interest imposed by statute on a tax deficiency. American Airlines, Inc. v. City of St Louis, 368 S.W.2d 161 (Mo. 1963); see generally 85 C.J.S. Taxation, 1031(c) (1954). We agree with the State that I.C. 63-3045(c) is clear and unequivocal when it states that 'interest . . . shall be assessed' and 'shall be collected.' This section is not discretionary, but rather, it is mandatory. Following the language of this section we hold that this Court, as well as the district court, lacks any power to remit the interest that is mandated by the statute.

Interest imposed under Idaho Code § 63-3045 is a mandatory charge. The charge is calculated from the due date of the return at a rate that is established by the legislature each year. Interest charged in the NODD must be upheld.

THEREFORE, the Notice of Deficiency Determination dated May 6, 2015, and directed to [Redacted], is hereby APPROVED and MADE FINAL.

IT IS ORDERED that the petitioner pay the following penalty and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$307	\$15	\$48	\$370
			Payment Rec'd	<u>(307)</u>
			TOTAL DUE	<u>\$ 63</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2015.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.  
  
\_\_\_\_\_